

Congress of the United States  
Washington, DC 20515

May 16, 2022

Hon. Blake A. Hawthorne, Clerk  
Supreme Court of Texas  
201 West 14<sup>th</sup> Street, Room 104  
Austin, Texas 78701

Re: Amicus Curiae Letter: *James Frederick Miles v. Texas Central Railroad & Infrastructure, Inc. and Integrated Texas Logistics, Inc.*; Case No. 20-0393.

Dear Mr. Hawthorne, and to the Honorable Justices of the Texas Supreme Court:

As elected Members of Congress, representing districts in Texas that will be significantly impacted by Texas Central Railroad's (TCR) bullet train project, we file this letter to express our concerns about TCR's proposed Dallas to Houston high-speed rail project.<sup>1</sup> At the federal level alone, TCR does not qualify for loans that they proclaim are essential, has not applied for the necessary permits from the Surface Transportation Board, nor has authority from the Federal Railroad Authority to begin construction – making this project woefully unprepared to build a high-speed rail line. **Granting TCR the extraordinary power to seize 240 miles of private property will serve only to devastate thousands of landowners and the communities in which they live and rob the American taxpayer. As it stands, TCR is merely a grossly underfunded promoter of a project that has one foot in the grave.** We respectfully request that the Court consider these important facts and rule in favor of Mr. Miles and against TCR.

In September 2020, TCR's CEO Carlos Aguilar said that obtaining federal dollars from the Infrastructure Investment and Jobs Act (IIJA) is "key" to the future of TCR's project.<sup>2</sup> This is the same company that, in March 2016, promised that "the project does not need, does not want and will not ask for government grants for construction or public money to subsidize operations."<sup>3</sup> Six years later, TCR is claiming it needs access to \$12 billion in federal taxpayer dollars. Now that the federal infrastructure bill is now law, TCR is ineligible for *any* high-speed or passenger rail funds in the bill, as those funds are reserved exclusively for public projects. As a result, it is entirely unclear how TCR intends to obtain the \$30 billion it needs to construct its project.

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<sup>1</sup> We have paid all costs and fees incurred in preparing this amicus letter.

<sup>2</sup> Jason Whitely. *Building Texas Bullet Train Hinges on Congress Passing Bipartisan Infrastructure Bill, CEO says*. WFAA. 6 September 2021.

<sup>3</sup> Peter LeCody. *CEO: High-speed rail, moving Texas forward without taxpayer grants or bailouts*. <https://texasrailadvocates.org/2016/04/09/ceo-high-speed-rail-moving-texas-forward-without-taxpayer-grants-or-bailouts/>. Texas Rail Advocates. 9 April 2016.

Although TCR claims to be in “execution phase,” it does not have federal authority to begin construction or operation of the project, as it has yet to obtain nor apply for the necessary permits from the Surface Transportation Board (STB) or the Federal Railroad Administration (FRA). In July 2020, the STB asserted jurisdiction over the project, but denied TCR’s petition to exempt itself from the full application process required of new rail lines. In its decision, the STB made clear that TCR must obtain a permit before beginning any construction. It has been over a year and a half since the STB’s ruling, and TCR has yet to submit an application for a construction permit. If TCR ever chooses to do so, it must then endure the lengthy, costly, and adversarial process a full application necessarily entails.

With respect to operational permits, in November 2020 the FRA made clear that TCR must comply with all U.S. safety and crashworthiness standards before it will be allowed to operate its chosen Japanese Tokaido Shinkansen high-speed train technology in the U.S. This will undoubtedly serve as an enormous obstacle to TCR because the Shinkansen technology is not interoperable with any existing transportation infrastructure. TCR has yet to inform the FRA of how, or when, it intends to come into compliance with U.S. safety standards and regulations.

Lastly, TCR has recently stated an interest in the Department of Transportation’s Railroad Rehabilitation & Improvement Financing (RRIF) loan program but has not started the process to apply for an RRIF loan. In any event, TCR would not be eligible to receive a RRIF loan unless it could meet Buy America requirements, which were enacted to promote U.S. economic development. Because TCR has chosen to employ Japanese technology for its project, it is unclear how TCR might satisfy Buy America requirements.

In short, TCR has not received any of the permits needed to begin construction or operation of the project, nor has it initiated any of the lengthy, costly processes required to obtain these permits. For these reasons, we strongly support the trial court’s judgment in favor of Mr. Miles and against TCR. If the Court allows TCR to seize private property for a project that is destined for failure, miles and miles of rural Texas will be permanently scarred with taxpayers left to foot the bill.

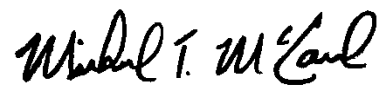
Respectfully submitted,



Kevin Brady  
Member of Congress  
Eighth District of Texas



Jake Ellzey  
Member of Congress  
Sixth District of Texas



Michael T. McCaul  
Member of Congress  
Tenth District of Texas

**Certificate of Service**

I certify that a copy of this Amicus Curiae Letter was served by electronic transmission on all counsel of record on May 16, 2022.

A handwritten signature in black ink, appearing to read "Kevin Brady", with a stylized flourish at the end.

Kevin Brady  
Member of Congress  
Eighth District of Texas